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IPW

PATENT

In the UNITED STATES PATENT and TRADEMARK OFFICE

APPLICANT: Ndife, et al.	EXAMINER: Helen F. Pratt
SERIAL NO.: 10/603,464	ART UNIT: 1761
FILING DATE: June 25, 2003	DOCKET NO.: 6953US01
TITLE: INFANT FORMULA	I certify that this correspondence (along with any paper referred to as being attached or enclosed) is being deposited with the United States Postal Service with sufficient postage as first class mail addressed to the Commissioner for Patents, P. O. Box 1450, Alexandria, VA, 22313-1450 on the date shown below.
	<i>Wendy Detwiler</i> 1-4-05 Wendy Detwiler Date

Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

TRANSMITTAL LETTER

Enclosed herewith is a Reply Brief Pursuant to 37 CFR 41.41(a) for the above-identified patent application.

Also enclosed is:

1 Return Postcard

If any fees are owing, or any credit is due pertaining to this case, please charge that fee or apply that credit to Deposit Account No. 01-0025.

Ross Products Division of
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Respectfully submitted,

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Docket: 6953US01



Case 6953US01

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REPLY BRIEF PURSUANT TO 37 CFR 41.41(a)

Dear Sir:

Appellants have received the Examiner's Answer mailed December 15, 2004, in response to their Appeal Brief for the above-referenced application. This Reply Brief is submitted pursuant to 37 CFR 41.41(a) in response to the Examiner's Answer.

Summary of Claimed Invention on Appeal

For the Board's convenience, the claimed invention on appeal is directed to infant formula tablets (independent claims 1 and 14) and a method of providing nutrition to an infant from a reconstituted formula derived from the tablets (method claim 11).

The infant formula tablet of claim 1 comprises from 10-20 w/w % protein (see page 10, line 5); from 40-70 /w% carbohydrate (see page 10, line 6); and at least 20 w/w% fat (see page 10, line 7); wherein the tablet is formed under a pressure selected from within a range of from about 400 psi to about 1500 psi (see page 12, lines 15-19), and wherein the pressure is selected so that a film of fat does not form on the exterior tablet surface (see page 3, lines 2-6), and wherein the resulting infant formula tablet dissolves within 60 seconds in accordance with a manual dissolution test (see page 3, lines 28-34; page 10, line 2).

The infant formula tablet of claim 14 comprises on a 100 kcal basis from about 8 to about 16 grams of carbohydrate, from about 3 to about 6 grams of fat, and from about 1.8 to about 3.3 grams of protein (see page 9, lines 31-34; page 10, lines 1 and 2), wherein the

tablet is formed under a pressure selected from within a range of from about 400 psi to about 1500 psi (see page 12, lines 15-19), and wherein the pressure is selected so that a film of fat does not form on the exterior tablet surface (see page 3, lines 2-6), and wherein the resulting infant formula tablet dissolves within 60 seconds in accordance with a mechanical dissolution test (see page 10, line 2).

Issued Raised by Examiner's Answer

In the Examiner's Answer, the Examiner introduced Jang (US Patent 4,894,236), Lamb (US Patent 3,608,064), and Onlineconversion.com as evidence in support of a conversion of tons to psi (pounds/sq in). The Examiner had previously relied upon the Merck reference to support such a conversion.

Appellants submit that the Examiner has mischaracterized the art in stating at page 6, lines 4 and 5, of her Answer "...Merck distinctly discloses tons converted to psi." Appellant, however, finds no such conversion stated or even suggested by Merck. Merck merely discloses a conversion from tons/sq ft to lbs/sq in (psi).

The Examiner also invokes Onlineconversion.com to support her contention that the prior art teaches a conversion from tons to lbs/sq in (psi). This particular website, however, is similar to Merck in NOT disclosing any conversion from force (e.g. tons) to pressure (e.g., tons/unit area).


The Examiner points out that Jung and Lamb disclose tableting pressures measured as tons/sq in. She then concludes that these references thus show that tons/sq in. is the usual measure known in the art for pressing tablets. Nowhere in either reference, however, is there any suggestion that such measures are a standard for tableting pressure in the industry. And in fact, the other references cited by the Examiner (Merck and Onlineconversion.com) list pressures in a variety of units, including tons/sq ft, tons/sq in, and tons/sq meter.

The Examiner contends that the above references thus support her contention that the Ozalvo et al. reference, even though it only discloses a tableting pressure of 0.25 tons, really means pounds/sq in (psi). However, among the six different references cited by the examiner in the current rejection, (Brochner, Ozalvo, Lamb, Jang et al., Onlineconversion.com, and Merck), not one teaches or suggests that a tableting pressure of 0.25 tons really means pounds/sq in (psi) to one of ordinary skill in the art.

Conclusion and Relief Requested

Based upon the arguments in Appellants' Appeal Brief and Reply Brief, it is respectfully submitted that claims 1-11 and 14 on appeal are unobvious under 35 USC 103 over the prior art relied upon by the Examiner. Accordingly, Appellants request that Honorable Board of Appeals and Interferences reverse the Examiner's rejection and allows the above application to issue with claims 1-11 and 14 currently pending.

Respectfully submitted,

By 

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